IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

2013 SEP 11 P 9:15
USDC-EDPA
REC'D CLERK

HARVEY MIGUEL ROBINSON, JR., Plaintiff v. JEFFREY A. BEARD, individually and his official capacity as Secretary of the Pennsylvania Department of Corrections, DAVID DiGUGLIELMO, individually and his official capacity as Superintendent at SCI-Graterford, JULIE KNAUER, individually and her official capacity as a Health Care Administrator at SCI-Graterford, MYRON STANISHEFSKI, individually and his official capacity as a Health Care Administrator at SCI-Graterford, DR. FELIPE ARIAS, individually and his official capacity as a Physician at SCI-Graterford, BRIAN TOMS, individually and his official capacity as a Correctional Officer at SCI-Graterford, FRANCIS BERETSKY, individually and his official capacity as a Correctional Officer at SCI-Graterford, WILLIAM WILCOX, individually and his official capacity as a Correctional Officer at SCI-Graterford, JOSEPH FRUSHON, individually and his official capacity as a Correctional Officer at SCI-Graterford, Defendants.	Civil Action No. 08-03156-RLB **JURY TRIAL DEMANDED** **(Electronically Filed)**

AMENDED COMPLAINT

PLAINTIFF, HARVEY MIGUEL ROBINSON, JR., by and through his attorneys, DUANE MORRIS LLP, hereby complains of JEFFREY A. BEARD, DAVID DiGUGLIELMO, JULIE KNAUER, MYRON STANISHEFSKI, DR. FELIPE ARIAS, BRIAN TOMS, FRANCIS BERETSKY, WILLIAM WILCOX, JOSEPH FRUSHON, individually and their official capacities as administrators, employees, and/or agents of the Pennsylvania Department of Corrections and/or SCI-Graterford (hereinafter, collectively, the "Defendants") as follows:

PARTIES

1. The Plaintiff, HARVEY MIGUEL ROBINSON, JR. ("Plaintiff" or "Robinson"), is an adult and competent individual currently incarcerated at the State Correctional Institution at Graterford ("SCI Graterford"), which is located in Skippack Township, Montgomery County, Commonwealth of Pennsylvania.

2. The Defendant, JEFFREY A. BEARD ("Beard") is the Superintendent of the Pennsylvania Department of Corrections. Beard is an adult and competent individual with offices located at the Department of Correction's Central Office, P.O. Box 598, Camp Hill, Commonwealth of Pennsylvania, 17001.

3. The Defendant, DAVID DiGULGLIELMO ("DiGuglielmo") is the Superintendent at SCI-Graterford. DiGuglielmo is an adult and competent individual with offices located within SCI Graterford.

4. The Defendant, JULIE KNAUER ("Knauer") is a Lieutenant and/or Health Care Administrator employed by and/or acting on behalf of SCI Graterford. Knauer is an adult and competent individual with offices located within SCI Graterford.

5. The Defendant, MYRON STANSISHEFSKI ("Stanishefski") is a Lieutenant and/or Health Care Administrator employed by and/or acting on behalf of SCI Graterford. Stanishefski is an adult and competent individual with offices located within SCI Graterford.

6. The Defendant, DR. FELIPE ARIAS ("Dr. Arias") is a physician employed by and/or acting on behalf of SCI-Graterford. Arias is an adult and competent individual with offices located within SCI Graterford.

7. The Defendant, BRIAN TOMS ("Toms") is a Correctional Officer employed by SCI-Graterford. Toms is an adult and competent individual with an employment address located at SCI Graterford.

8. The Defendant, FRANCIS BERETSKY ("Beretsky") is a Correctional Officer employed by SCI-Graterford. Beretsky is an adult and competent individual with an employment address located at SCI Graterford.

9. The Defendant, WILLIAM WILCOX ("Wilcox") is a Correctional Officer employed by SCI-Graterford. Wilcox is an adult and competent individual with an employment address located at SCI Graterford.

10. The Defendant, JOSEPH FRUSHON ("Frushon") is a Correctional Officer employed by SCI-Graterford. Frushon is an adult and competent individual with an employment address located at SCI Graterford.

JURISDICTION AND VENUE

11. This action is brought pursuant to 42 U.S.C. §§ 1983, 1988 and the Eighth and Fourteenth Amendments of the United States Constitution.

12. This Court has jurisdiction over the federal claims stated herein pursuant to 28 U.S.C. §§ 1331 and 1343.

13. The Court has jurisdiction over the supplemental claims arising under Pennsylvania law pursuant to 28 U.S.C. § 1367.

14. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b).

15. At all times relevant and material hereto, and with respect to all actions described herein, Defendants were acting under color of state law and color of their authority as officials of the Pennsylvania Department of Corrections and/or SCI Graterford, and as agents and/or state

actors of the Pennsylvania Department of Corrections and/or SCI Graterford pursuant to the specific actions alleged in this Amended Complaint.

PROCEDURAL AND FACTUAL BACKGROUND

16. At all times relevant herein, Plaintiff resided within the "J Block" section of SCI Graterford, which is a restricted housing unit ("RHU") where all inmates are subject to administrative segregation and, in most cases, require correctional officers to escort them when moving outside of their cells.

17. On July 3, 2006, Plaintiff was scheduled to attend the law library located within J Block on or around 7:00 a.m.

18. On or around 7:00 a.m. on July 3, 2006, Toms approached Plaintiff's cell door to escort Plaintiff to the law library. Plaintiff informed Toms that he required several more minutes to wash up and prepare himself. At this time, Plaintiffs and Toms were alone.

19. When Toms returned to escort Plaintiff, and before reaching Plaintiff's cell, Plaintiff's cell door opened and he stepped into the cell doorway and asked Toms why the door was opened. Toms responded, "to take you to the library, get dressed."

20. As Plaintiff continued getting dressed, and while bending down to put on his shoes, Toms suddenly grabbed Plaintiff's upper body and pulled him out of the cell and into the tier are of J Block.

21. Toms proceeded to hold Plaintiff by the throat with one hand while continually striking (punching) Plaintiff in the face and head with the closed fist of Toms' second hand. Toms continued striking Plaintiff for a period of time while repeatedly stating, "go down", after each and every strike.

22. Upon information and belief, Wilcox and Beretsky then came running down the B-Wing tier of J Block and immediately began punching and kicking Plaintiff while wrestling Plaintiff to the ground, finally hand cuffing Plaintiff behind his back.

23. Defendants Toms and Beretsky then continued to kick and punch Plaintiff, as Plaintiff was handcuffed behind the back laying on the ground.

24. Plaintiff was then picked up by several correctional officers and escorted to the shower area located in B-Wing, where Plaintiff was confined for a long period of time.

25. Upon information and belief, Toms, Beretsky and Wilcox assaulted and physically harmed Plaintiff: (a) in retaliation of his criminal convictions; (b) because of grievances/complaints Plaintiff submitted against Defendants and their co-workers; and/or (c) in abuse of their authority as correctional officers.

26. After waiting in the B-wing shower for approximately 30 minutes, correctional officers escorted Plaintiff to the medical infirmary located in SCI Graterford, where he was examined by two nurses and a physician, Dr. Arias. The medical staff completed a medical incident report and pictures were taken of almost all of Plaintiff's visible injuries.

27. During the examination, Plaintiff reported severe and extremely throbbing pain, soreness and tenderness on both sides of his head (top/and back of his head), face (including both sides of his jaw), left eye and ear, neck, shoulders and back, blurred vision in left eye, cut inside of mouth, and abrasions and scratches on arms. Plaintiff visibly suffered a swollen and blackened left eye (protruding outward from his face almost an inch), which was almost closed. Plaintiff also suffered blood in the white part of his left eye. Plaintiff also suffered a cut inside his mouth, abrasions and scratches on arms, back and neck, redness on neck, left shoulder and both arms.

28. At about 1:30 pm an July 3, 2006, Plaintiff received two (2) falsified and fabricated (DC-141) misconduct reports charging him with assault for purportedly threatening an employee and refusing a direct order based on the above described events. Toms wrote of the first misconduct report and Frushon wrote the second report.

29. The "staff member's version" on both misconduct reports alleged that Plaintiff was being escorted to the law library by both Toms and Frushon and that Plaintiff was able to "free his hand" (*i.e.*, "slip his cuffs") in order to "swing[] his closed right fist repeatedly at Toms". The misconduct reports further alleged that Plaintiff threatened defendant Tom and refused an order.

30. Upon information and belief, Toms and Frushon falsified and fabricated the above mentioned misconduct reposts with malice and specific intention to cause harm to plaintiff in order to conceal the above described assault committed by defendants Toms, Wilcox and Beretsky against Plaintiff.

31. Since the time of the above mentioned assault, up until present day, Plaintiff has submitted numerous medical sick call slips and has been scheduled for many "doctor line" call outs. Plaintiff has experienced daily throbbing pain in his head and neck, and additional problems with his neck (*i.e.*, whenever plaintiff turns his head to the left/or right and forward/down, plaintiff immediately suffers a mixture of extreme pain that affects his head down to his back and spine, as well as down both arms). Plaintiff further suffers from blurred vision in left eye.

32. Following the initial month after the assault described above, Plaintiff has experienced and continues to experience throbbing pain in his head and neck; bouts of dizziness,

nausea, and fatigue; and occasional period of unconsciousness. Plaintiff has reported and continues to report these medical conditions to the SCI Graterford medical staff.

33. Despite repeated trips to the infirmary and requests to go to the infirmary for treatment, the medical staff at SCI Graterford – including Dr. Arias – have denied most, if not all, of Plaintiffs requests for medical treatment (with the exception of providing Defendant with ibuprofen). Defendants have denied Plaintiff's request to see a specialist, request to see a physical therapist, and request to receive medical testing, specifically an MRI and/or CT scan of Plaintiff's injured areas.

34. Based on the denials by the medical staff, Plaintiff submitted an inmate grievance against Defendants - including Dr. Arias – in accordance with SCI Graterford policy.

35. Knauer was assigned to Plaintiff's grievances directed at the medical staff. Despite having knowledge of Plaintiff's injuries and the cause of those injuries, Knauer denied Plaintiff's grievance and the request for the above-specified medical treatment.

36. Pursuant to Pennsylvania Department of Corrections policy, Plaintiff filed a second level appeal to DiGuglielmo. DiGugliemo eventually responded by upholding the response provided by defendant Knauer, which, as mentioned above, was to deny Plaintiff's grievance.

37. On or about the first week of October 2006, Plaintiff began experiencing severe and debilitating problems with his nervous system. Specifically, Plaintiff's finger tips (on both hands) began tingling (about two on each hand) and going numb, thereby causing extreme pain and discomfort to Plaintiff.

38. By the end of October 2006, Plaintiff was experiencing numbness and tingling in all fingers and extreme pain and weakness in both palms, forearms, and biceps. Plaintiff

immediately reported the above mentioned nervous system problems to SCI Graterford prison officials by way of sick call slips, medical visits, and specifically addressed memorandums.

39. On November 1, 2006, Plaintiff separately sent DiGuglielmo and Knauer a memoranda to inform them of the above mentioned problems he was experiencing with his nervous system. Plaintiff expressed to both DiGugliemo and Knauer that he believes he has suffered nerve damage as a result of being assaulted by Toms, Wilcox, and Beretsky on July 3, 2006. In both memoranda, Plaintiff went on to request medical treatment for the nerve damage, for a CT scan , and to be seen by a specialist.

40. DiGuglielmo and Knauer failed to provide Plaintiff with a response to the above mentioned memoranda, instead only returning Plaintiff's memoranda with a stamp on one "RECEIVED" by the medical department (with notation), and stamped "RECEIVED" by the Superintendent's office on the other.

41. On November 20, 2006, Stanishefski responded to the above mentioned memoranda by sending Plaintiff a response (dated November 20, 2006) stating, "I have received your medical records. There is numerous documentation of your request for CAT scan and MRI. However, your medical exams and x-rays have been negative. Your request to be seen by a specialist and to receive an MRI or CAT scan is denied at this time."

42. Plaintiff continued to submit sick call slips, explaining of his worsening nervous system condition and of the extreme throbbing pain in his neck and head. Each time, Plaintiff requested medical treatment and such treatment was denied.

43. On December 1, 2006, Dr. Arias, during a "doctor line" visit to the infirmary, informed Plaintiff that he was approving and sending plaintiff for an MRI of his upper spinal column (i.e., neck area). During this December 1, 2006 visit, plaintiff informed defendant Dr.

Arias that his nervous system condition has worsened to the point where he was starting to experience weakness, extreme and continual pain, numbness and tingling throughout both arms (from his shoulders down to his finger tips of all ten fingers), pain/weakness and numbness throughout his whole back, stomach, chest and both legs, and that all of this is greatly affecting his walking.

44. On December 14, 2006, Plaintiff was taken to a local hospital – Mercy Suburban – for the MRI of his neck, but upon information and belief, there was a "mix up" with the paper work the Hospital was supposed to receive and plaintiff's MRI had to be rescheduled.

45. On December 26, 2006, Plaintiff was again taken to the same local hospital and an MRI was done of plaintiff's upper spinal column (neck).

46. On December 30, 2006, plaintiff spoke to Dr. Arias during a sick call visit. Dr. Arias informed plaintiff that the MRI results of Plaintiff's upper spinal column (neck) showed that plaintiff has two (2) ruptured disks and a fractured vertebra, and that Plaintiff would be scheduled for a doctor line visit to go over/and discuss the MRI results. Dr. Arias further advised Plaintiff that he ordered additional tests to measure nerve damage.

47. Thereafter, Plaintiff continued to submit sick call slips and, during the sick call visits, Plaintiff explained of his worsening nervous system condition, that it was to the point where he was experiencing weakness, extreme pain, and tingling numbness totally throughout both arms. Plaintiff further informed the medical staff that he suffered extreme pain, weakness and numbness in his entire back, stomach, chest and both legs. As a result of these injuries, it has become difficult for Plaintiff to: (a) do routine and simple tasks with his hands; and (b) to effectively walk.

48. On February 20, 2007, Plaintiff explained to Dr. Arias of the above mentioned worsening nervous system condition that plaintiff was continuing to suffer from and, again, Plaintiff requested medical treatment and surgery to correct his condition. Dr. Arias then informed plaintiff that tests to measure nerve damage have been approved for Plaintiff.

49. On March 29, 2007, Plaintiff was finally taken to a private physician's office, where nerve conduction studies where performed to measure nerve damage.

50. On March 30, 2007, Plaintiff spoke directly to DiGuglielmo and explained exactly how his nervous system problems have worsened as mentioned above, and requested medical treatment. DiGuglialmo assured Plaintiff that he would investigate his concerns.

51. On April 10, 2007, Plaintiff again spoke directly to DiGuglielmo in order to express concerns over the status of his physical condition and injuries, as previously explained on March 30, 2007, remained in the same condition and/or worsened and to, once again, request medical treatment. In addition, Plaintiff requested the aid of a plastic chair for (resting) on while in the shower and yard. DiGuglielmo again stated he would investigate Plaintiff's concerns.

52. Plaintiff continued to submit sick call slips, requesting the results of the nerve conduction study tests performed on him on March 29, 2007. Eventually Plaintiff was informed that he did, in fact, have nerve damage and that he would be scheduled to speak to Dr. Arias.

53. In a doctor line visit that followed, Dr. Caleb Nwosu explained Plaintiff's nerve damage to him. Plaintiff then requested medical treatment and surgery to treat and/or correct the two ruptured disks and fractured vertebra. Doctor Nwosu informed plaintiff that any such requests can only be approved by Dr. Arias and advised that he bring his request and concerns to Dr. Arias.

54. Following this above mentioned doctor line visit with Dr. Nwosu, Plaintiff brought all the above mentioned requests to the attention of Dr. Arias during sick call visits that followed (a June 5, 2007 sick call visit being one), and defendant Dr. Arias denied all requests for medical treatment beyond providing ibuprofen.

55. By way of letter dated July 30, 2007, Plaintiff wrote to Beard in order to inform him of, among other things, the above failure to address Plaintiff's serious and worsening medical condition and to make him aware of the above mentioned assault.

56. By way of inmate request slips, memoranda, administrative appeals of inmate grievances/and misconduct reports, among other things, Plaintiff fully informed and made Defendants aware of the above mentioned assault, Plaintiff's exact medical condition and/or medical needs, and continual problems as a result of the injuries plaintiff sustained due to the above mentioned assault.

57. Prior to filing this action, Plaintiff has exhausted his administrative remedies and appeals. Plaintiff requested initial reviews on July 5, 2006, July 11, 2006, July 21, 2006 and July 31, 2006. Plaintiff requested that correctional officials interview him and potential witnesses, contact the state police to press charges against the officers, and requested to seek and receive medical treatment. Plaintiff further sought second level appeals of the initial reviews and grievances/complaints on July 28, 2006, September 28, 2006, and September 5, 2006. Plaintiff sought final reviews of his initial reviews and grievances/complaints on October 6, 2006, October 12, 2006, January 16, 2007, November 8, 2006, December 1, 2006, October 5, 2006, and November 3, 2006.

58. Defendants exercised complete and deliberate indifference to the vicious assault that occurred on July 3, 2006 and his resulting injuries and medical condition.

59. As a result of Defendants failure to provide medical evaluation and treatment and the complete and deliberate indifference exhibited to Plaintiff's medical condition and serious medical needs, Plaintiff's injuries and medical condition drastically worsened (between October 2006 and May 2007) to the point where it had an almost crippling effect on Plaintiff's ability to walk and engage in routine physical practices as mentioned above.

60. To date, plaintiff is still suffering from severe throbbing pain in his neck and back of his head, still suffers from the effects of the nerve damage, nightmares about the assault, and other psychological trauma.

61. The actions and/or deliberate indifference explained above caused Plaintiff severe injuries and to suffer permanent damage to his spinal column, nerve damage, prolonged and extreme pain, unnecessary complications, stress, nightmares, fear, depression and many other psychological impacts, traumas and tortures.

62. Toms, Beretsky and Wilcox used excessive force and violence against Plaintiff in that they viciously beat and assaulted plaintiff without cause, need, and/or provocation, which was done maliciously and intentionally with the purpose of causing Plaintiff injury, physical harm, emotional harm, and/or severe mental anguish and suffering. The correctional officers' attack upon Plaintiff further constituted cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution.

63. The actions of Toms and Frushon to falsify and fabricate misconduct reports in order to conceal the above mentioned assault, as described of in this complaint, were done with malice and specific intention to cause harm to Plaintiff and hinder his ability to receive adequate medical treatment.

COUNT I: 42 U.S.C. § 1983 VIOLATION OF THE EIGHTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION

64. Paragraphs 1 through 63 of the Amended Complaint are incorporated herein by reference.

65. Toms, Beretsky, and Wilcox exercised extreme and deliberate indifference to Plaintiff's health and physical wellbeing by assaulting Plaintiff on July 3, 2006 and, for a period of several minutes, among other things, repeatedly striking Plaintiff with closed fists to his head, neck, and upper torso.

66. As a result of the attack, Plaintiff suffered injuries and physical harm that was obvious and visible, notwithstanding Plaintiff's immediate complaints of injuries and request to receive emergency medical treatment.

67. Following the attack, Defendants exercised extreme and deliberate indifference to Plaintiff's health and physical wellbeing by ignoring the injuries inflicted upon by Plaintiff, despite their obvious and visible nature and Plaintiff's pleas for medical treatment, by waiting approximately 30 minutes to take Plaintiff to the infirmary to receive such treatment.

68. For a period of several months following July 3, 2006, Defendants, through their actions and omissions, exercised complete and deliberate indifference to Plaintiff's serious and severe injuries and medical condition that resulted from the July 3, 2006 attack upon Plaintiff by failing to provide Plaintiff with adequate medical treatment and/or to ensure that such treatment was available.

69. Upon information and belief, Defendants, through their actions and/or omissions, exercised this complete and deliberate indifference to, among other things, further conceal the assault of Plaintiff by correctional officers, to limit the official and personal liability of

correctional staff, and/or to further retaliate against Plaintiff for the crimes he committed and the grievances he previously filed.

70. Plaintiff's injuries and medical condition resulting from the July 3, 2006 have, among other things, significantly affected and impaired Plaintiff's ability to walk, engage in routine physical activities, resulted in serious and permanent nerve damage, have affected Plaintiff's vision, and have inflicted a massive amount of chronic and substantial pain and suffering. Plaintiff's injuries and the resulting medical conditions were directly and proximately caused by the attack Plaintiff suffered on July 3, 2006.

71. The foregoing conduct has harmed, continues to harm, and poses a serious and substantial risk of harm to Plaintiff's health and wellbeing.

72. As a direct and proximate result of the foregoing conduct, Defendants have violated Plaintiff's constitutionally-protected right under the Eighth Amendment to be free from cruel and unusual punishment – as such right is incorporated into the Fourteenth Amendment.

73. As a direct and proximate result of the foregoing conduct, Defendants have also violated Plaintiff's constitutionally-protected substantive due process rights under the Fourteenth Amendent.

COUNT II: ASSAULT AND BATTERY

74. Paragraphs 1 through 73 of the Amended Complaint are incorporated herein by reference.

75. On July 3, 2006, Toms, Beretsky, and Wilcox committed an assault and battery upon Plaintiff by, among other things, grabbing Plaintiff's throat and upper body, throwing Plaintiff to the ground, and/or repeatedly striking Plaintiff with closed fists and/or threatening to strike Plaintiff for a period of several minutes.

76. Plaintiff did not consent to be physically touched or threatened to be touched by Defendants.

77. Plaintiff did not engage in any conduct to warrant the use of force and/or excessive force that occurred during the July 3, 2006 assault and there is no justification for such assault and battery.

78. Defendants actions during the July 3, 2006 assault caused Plaintiff to be struck and/or threatened to be struck with many violent blows on or about various parts of his body, including the face, head, neck, and upper torso, and Defendants struck Plaintiff with great force and violence, shook and pulled the Plaintiff, cast and threw him to the ground, and administered repeatedly a great many other blows to his face, neck, and body.

79. Defendants intentionally caused Plaintiff to imminently apprehend a battery by striking and/or threatening to strike him, which did place Plaintiff into reasonable apprehension of an immediate battery and caused him to apprehend such imminent battery, physical harm, and injury.

80. As a direct and proximate result of the foregoing conduct, Defendants intentionally caused Plaintiff to suffer harmful and/or offensive contact to his body by repeatedly striking him over a period of several minutes, which caused Plaintiff to suffer, among other things, injuries and a medical condition that have significantly affected and impaired Plaintiff's ability to walk, engage in routine physical activities, resulted in serious and permanent nerve damage, have affected Plaintiff's vision, and have inflicted a massive amount of chronic and substantial pain and suffering.

COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

81. Paragraphs 1 through 80 of the First Amended Complaint are incorporated herein by reference.

82. Defendants have acted intentionally in harassing, threatening, intimidating, harming, and otherwise frightening Plaintiff by, among other things, grabbing Plaintiff's throat and/or upper body and repeatedly striking and/or threatening to strike Plaintiff with closed fists on July 3, 2006 and by failing to immediately provide Plaintiff with emergency medical treatment.

83. Defendants' unlawful and intentional conduct was extreme and outrageous and done with malice and reckless disregard of the likelihood of causing Plaintiff emotional distress and severe anxiety.

84. As a direct and proximate result of the aforementioned outrageous acts, Plaintiff has suffered, and continues to suffer, extreme emotional distress and severe anxiety.

COUNT IV – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

85. Plaintiffs hereby incorporate the averments set forth in paragraphs 1 through 84 above, as if set forth herein at length.

86. Defendants acted negligently in harassing, threatening, intimidating, and otherwise frightening Plaintiff by, among other things, grabbing Plaintiff's throat and/or upper body and repeatedly striking and/or threatening to strike Plaintiff with closed fists on July 3, 2006 and by failing to immediately provide Plaintiff with emergency medical treatment.

87. The Defendants unlawful and negligent conduct was extreme and outrageous and done with reckless and/or negligent disregard of the likelihood of causing Plaintiff emotional distress and severe anxiety.

88. As a direct and proximate result of the aforementioned outrageous acts, Plaintiff has suffered, and continues to suffer, extreme emotional distress and severe anxiety.

COUNT V: NEGLIGENCE

89. Plaintiffs hereby incorporate the averments set forth in paragraphs 1 through 88 above, as if set forth herein at length.

90. Toms, Beretsky, and Wilcox, as professionally trained correctional officers of the Pennsylvania Department of Corrections, had a duty to ensure the safety of inmates incarcerated at SCI Graterford, had a duty to refrain from physically assaulting and/or injuring inmates, had a duty to refrain from using excessive force, and/or had a duty to ensure that inmates suffering from physical harm and injuries receive prompt and timely medical care.

91. By striking Plaintiff with closed fists and/or threatening to strike Plaintiff during the July 3, 2006 assault, among other things, Defendants breached their duty of care.

92. By failing to ensure that Plaintiff received timely medical treatment following the July 3, 2006 assault, Defendants breached their duty of care.

93. As a result, Defendants have directly and proximately caused Plaintiff to suffer serious and severe injuries.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief from this Honorable Court:

1. A declaration that the acts and omissions described herein violated plaintiff's rights under the Constitution and laws of the United States.

2. Compensatory damages in the following amounts:

a. $250,000 jointly and severally against each defendant for past and present personal injury.

b. $250,000 jointly and severally against each defendant for past and present pain and suffering.

c. $100,000 jointly and severally against each defendant for past and present mental and emotional injury.

d. $300,000 jointly and severally against each defendant for permanent injury and future pain and suffering.

3. Punitive damages in the amount of $250,000 against each defendant.

4. Reasonable fees and costs pursuant to 42 U.S.C. § 1988.

5. A jury trial on all issues triable by jury.

6. Any additional relief this Court deems just, proper, equitable.

Respectfully submitted,

/s/ James J. Halligan
James J. Halligan, Esq.
PA Bar ID 309841
DUANE MORRIS LLP
30 South 17th Street
Philadelphia, PA 19103
Tel: 215-979-1187
Fax: 215-979-1020

Attorneys for Plaintiff
Harvey Miguel Robinson

Dated: September 11, 2013

CERTIFICATE OF SERVICE

I, James J. Halligan, do hereby certify that a true and correct copy of the foregoing Amended Complaint was served upon all counsel of record via the Court's CM/ECF electronic filing system and email. The parties may access and download this filing through the Court's CM/ECF system.

Dated: September 11, 2013

/s/ James J. Halligan
James J. Halligan, Esq.